IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MRS. JUSTICE K.HEMA

MONDAY, THE 30TH JULY 2007 / 8TH SRAVANA 1929

WP(C).No. 22134 of 2007(I)

PETITIONER:
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1. KRISHNANKUTTY @ ABRAHAM,
   POOVATHINGAL, MERCY NIVAS, MANISSERY P.O.,
   OTTAPALAM.

2. KALYANIKUTTY AMMA,
   JYOTHI NIVAS, MANISSERY P.O., VANIYAMKULAM,
   OTTAPALAM TALUK.

3. JYOTHI, D/O. KALYANIKUTTY AMMA,
   JYOTHI NIVAS, MANISSERY P.O., VANIYAMKULAM,
   OTTAPALAM TALUK.

4. SHIJA, D/O. KALYANIKUTTY AMMA,
   JYOTHI NIVAS, MANISSERY P.O., VANIYAMKULAM,
   OTTAPALAM TALUK.

5. SANKARA NARAYANAN,
   PUTHUPARAMBIL HOUSE, MANISSERY P.O.,
   OTTAPALAM TALUK.

BY ADV. SRI.VELLAYANI SUNDARARAJU
SMT.P.MEENAKUMARI
SMT.K.V.LEKSHMY

RESPONDENTS:
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1. THE CIRCLE INSPECTOR OF POLICE,
   OFFICE OF THE CIRCLE INSPECTOR OF POLICE,
   OTTAPALAM.

2. THE SUB INSPECTOR OF POLICE,
   OTTAPALAM POLICE STATION, OTTAPALAM.

3. THE NATURE INDIA GREENLAND DEVELOPMENT
   SOCIETY, REGD. NO.233/IV/2003, PALAKKAD -
   REPRESENTED BY ITS SECRETARY, P.R.SURESH.

4. VIJAYAN MATHUR,
   CHAIRMAN, NATURE INDIA GREEN LAND DEVELOPMENT
   SOCIETY, PALAKKAD.

5. CHINGANNOOR MANOJ,
PATRON, NATURE INDIA GREEN LAND DEVELOPMENT SOCIETY, PALAKKAD.

6. SETHUMADHAVAN,
SOURABHAM, MANISSERY P.O., OTTAPALAM TALUK.

R6 BY ADV. SRI.SANTHEEP ANKARATH
R3,R4 & R5 BY DR.K.P.KYLASANATHA PILLAY
SRI.K.JITHIN
SRI.K.GOPAKUMAR
SMT.SREEDEVI KYLASANATH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXTS:

EXT.P1 TRUE COPY OF SALE DEE3D NO.1356/81 DATED 29/4/81 OF SRO, OTTAPALAM.

EXT.P2 TRUE COPY OF REGISTERED ACKNOWLEDGEMENT DEED NO.834/1908 DTD. 13/2/1908 OF SRO OTTAPALAM.

EXT.P3 TRUE COPY OF WRITTEN LEASE ISSUED TO NARAYANAN EZHUTHACHAN BY RAVI NAMBOODIRIPAD DTD. 23/11/67.

EXT.P4 TRUE COPY OF PURCHASE CERTIFICATE VIDE NO.110/72 DTD. 26/54/1972 OF LAND TRIBUNAL, OTTAPALAM.

EXT.P5 FTRUE ;COPY OF REGISTERED SALE DEED VIDE L;NO.363/79 DTD. 8/2/1979 OF SRO, OTTAPALAM.

EXT.P6 TRUE COPY OF REGISTERED SALE3 DEED LNO.1850/86 DTD. 26/5/1986 OF SRO, OTTAPALAM.

EXT.P7 TRUE COPY OF REGISTERED SETTLEMENT DEED NO.717/94 DTD. 19/2/1994 OF SRO, OTTAPALAM.

EXT.P8 TRUE; COPY OF POSSESSION CERTIFICATE ISSUED TO IST PETITIONER DTD. 16/2/02 BY THE VILLAGE OFFICER, VANIYAMKULAM.

EXT.P9 TRUE COPY OF ORDER OF SUB COLLECTOR DTD. 1/3/2000 TO THE IST PETITIONER.

EXT.P10 TRUE ORIGINAL PHOTOGRAPH OF A BOARD FIXED IN THE PROPERTIES OF PETITIONERS ON 10/7/2007 BY RESPONDENTS 3 TO 6.

EXT.P11 TRUE COPY OF PETITION OF 2ND PETITIONER DTD. 11/7/07 TO 2ND RESPONDENT.

EXT.P11A TRUE COPY OF CRIMINAL COMPLAINT LODGED BEFORE 2ND RESPONDENT BY IST PETITIONER DTD. 13/7/2007.

EXT.P11B TRUE COPY OF CRIMINAL COMPLAINT LODGED BEFORE THE 2ND RESPONDENT DTD. 13/7/2007 BY THE 5TH PETITIONER.

RESPONDENTS' EXTS:

EXT.R3A TRUE COPY OF JUDGMENT DTD. 6/4/2005 IN WPC.9258/05.

EXT.R3B TRUE COPY OF PROCEEDINGS NO.385/2005 DTD. 29/S6/2006.

EXT.R3C SERIES. TRUE COPIES OF NEWSPAPER REPORTS PUBLISHED IN THE NEWSPAPER JANAYUGAM DAILY ON 9TH JUNE 9,2007 AND MALAYALA MANORAMA ON 30/5/2007

EXT.R3D	TRUE COPY OF ORDER NO.A3782/2004 DTD. 12/11/2004 OF THE VANIYAMKULAM GRAMA PANCHAYAT.
EXT.R6A	TRUE COPY OF THE ORDER OF THE SUB COLLECTOR, OTTAPALAM DTD. 18/8/2006.

P.R.RAMAN & K.HEMA JJ.

W.P.(C)NO.22134 OF 2007

Dated this the 30th day of July, 2007

JUDGMENT

Raman,J.

Petitioners claim to be owners in possession and enjoyment of 34 cents of land in Sy.No.2/2 of Vaniyamkulam-II Village, as per the purchase certificate issued by the Land Tribunal. Ext.P4 purchase certificate is produced in support thereof. It is submitted by the petitioner that some action have been taken by the revenue authorities and some writ petitions are also pending. The 6th respondent after entering appearance has filed a detailed counter affidavit disputing the claim made by the petitioners. According to the 6th respondent, there is a natural pond that was in existence from time immemorial and the pond is being used by public and the petitioner attempted to fill up the pond. He also submitted that the purchase certificate obtained by the petitioners is not valid in law, in so far as the entire procedure adopted by the petitioners in this regard is contrary to the rules. The learned Government pleader on the other hand would submit that this is a Government land and the purchase certificate is a fabricated document. In the above circumstances, it is a clear case that there is a dispute of civil nature which has to be adjudicated by a proper Forum. However,

the learned counsel appearing for the 6th respondent submitted that no trespass on his part has been made to the property, if any, in the possession of the petitioners. The same is recorded. The police shall see that there is no law and order situation as a result of the dispute between the parties. However, this judgment shall not interdict any of the authorities in taking recourse to the provisions of law and to take remedial steps to protect the respective rights. It is also open to the 6th respondent and the petitioners to approach any statutory Forum or court having jurisdiction for the resolution of the the title dispute.

Subject to the above, writ petition is closed.

P.R.RAMAN,
Judge.

K.HEMA,
Judge.

kcv.